

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BENNIE D. GRAVES,	)	Civil Action No. 2: 10-cv-00894
	)	
Petitioner,	)	
	)	Chief United States District Judge
vs.	)	Joy Flowers Conti
	)	
JEFFREY A. BEARD, PH.D.,	)	
Secretary, PA. Department of Corrections,	)	
et. al.,	)	
	)	
Respondents.	)	

**ORDER**

**AND NOW**, this 16th day of December, 2014, it is hereby **ORDERED, ADJUDGED AND DECREED** that for the reasons set forth in the accompanying memorandum opinion Petitioner’s “Motion Pursuant to Federal Rule of Civil Procedure 60(b)(5) and 60(b)(6) for Relief from Final Judgment Denying Equitable Tolling in 28 U.S.C. Section 2254 Habeas Corpus Petition that Asserted Miscarriage of Justice Actual Innocence Claim and Dismissing Petition as Untimely Under . . . (AEDPA) One Year Statute of Limitations of 1996” (ECF No. 23) is **DENIED**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 29) is **ADOPTED** as the opinion of the court, as supplemented by the memorandum opinion accompanying this order.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

BY THE COURT:

DATED: December 16, 2014

/s/ Joy Flowers Conti  
Joy Flowers Conti  
Chief United States District Judge

cc: BENNIE D. GRAVES  
DW-2957  
SCI Albion  
10745 Route 8  
Albion, PA 17475  
(via U.S. First Class Mail)

Christina M. Stover  
Office of the District Attorney of Allegheny County  
(via CM/ECF electronic notification)

Cory J. Schuster  
Office of the District Attorney of Allegheny County  
(via CM/ECF electronic notification)